

E. Colli  
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Group II, claims 7, 9, 19 and 20, drawn to a pharmaceutical formulation and a kit, classified in class 514, subclass 167.

Applicants are required to elect one of the above groups for prosecution on the merits. Applicants respectfully traverse the requirements for restriction and election, and submit that the requirements are improper.

Applicants assert that the subject matter of these groups represent different embodiments of a single inventive concept for which a single patent should issue. The pending claims represent an intricate web of knowledge, continuity of effort, and consequences of a single invention, which merit examination in a single application.

The unifying concept of the claimed embodiments of the invention is the prevention and/or treatment of interstitial cystitis and associated symptoms by administering a vitamin D compound. This is the core concept of the method claims of Group I and the pharmaceutical formulations claims of Group II and, in fact, is recited in the claims of both groups.

Notwithstanding the foregoing, Applicants submit that a sufficient search and examination with respect to the subject matter of all claims can be made without serious burden. As the M.P.E.P. states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

M.P.E.P. § 803 (8th ed., Rev. No. 7, 2008).

That is, even if the above-enumerated groups of claims are drawn to distinct inventions, the Examiner must still examine the entire application on the merits because doing so will not result in a serious burden.

Applicants submit that the search and examination of all the claims will have substantial overlap, and no serious burden will result from searching and examining all claims in the same application. This is especially true given the extensive computer databases and powerful search engines at the Examiner's disposal.

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Additionally, Applicants submit that Groups I and II are directed towards the same class and subclass, indicating that no additional search burden is imposed on the Examiner.

Accordingly, in the interest of savings of time and cost to Applicants and the Patent Office, Applicants respectfully request that all the claims be searched and examined in a single application and that all groups be rejoined into a single group.

Nevertheless, in compliance with the directives in the Office Communication and in order to expedite prosecution of the instant application, Applicants hereby provisionally elect, subject to the foregoing traverse, Group I, claims 3-5 and 10-18, drawn to a method of preventing and/or treating interstitial cystitis.

If a telephone conversation with Applicants' attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call the undersigned attorney at (617) 239-0100.

It is respectfully submitted that the subject application is in condition for allowance. Early and favorable action is requested.

The Director is hereby authorized to charge any credits or deficiency in the fees filed (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105, under Order No. 66073 (49949).

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Respectfully submitted,

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